

**AUG 07 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

KEVIN GEORGE ANTON,

Petitioner - Appellant,

v.

TOM CAREY, Warden

Respondent - Appellee.

No. 05-16620

D.C. No. CV-01-01282-DFL

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
David F. Levi, District Judge, Presiding

Submitted July 24, 2006\*\*

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

California state prisoner Kevin George Anton appeals *pro se* from the district court's judgment denying his 28 U.S.C. § 2254 petition, challenging his conviction for receiving stolen property. We have jurisdiction pursuant to

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

28 U.S.C. § 2253, and we affirm.

Anton contends that his trial counsel provided ineffective assistance by failing to perfect an appeal on his behalf. We conclude that the state appellate court's decision in this case was neither contrary to clearly established federal law nor objectively unreasonable, nor was it based on an unreasonable determination of the facts. *See* 28 U.S.C. § 2254(d); *Lockyer v. Andrade*, 123 S. Ct. 1166, 1172-73 (2003). Anton has not met the "critical requirement that counsel's deficient performance must actually cause the forfeiture of defendant's appeal," *Roe v. Flores-Ortega*, 528 U.S. 470, 484 (2000), and thus, is unable to demonstrate prejudice. *See id.*; *Canales v. Roe*, 151 F.3d 1226, 1231 (9th Cir. 1998). Accordingly, the district court properly denied this claim.

**AFFIRMED.**